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ABSTRACT

This paper examines the need to ensure fair treatment in matters relating to the Temporary Assistance for Needy Families (TANF) block grant. The 2002 reauthorization included many key priorities for Latino families, most especially by extending a hand to hardworking immigrants who become unemployed. The paper highlights key civil rights issues, calling on lawmakers to promote equal opportunities for Latino families and help them leave the welfare rolls and get good jobs. Several studies have shown patterns of discrimination against minority TANF recipients. Discriminatory practices limiting Latino families' access to services, work supports, and training programs have arguably contributed to disparate outcomes for families on TANF by race and ethnicity. Evidence points to the need for effective reforms to the TANF program which will protect the rights of all families and ensure that Hispanic mothers have equal opportunities to move off TANF rolls, into stable employment, and out of poverty. A broad coalition of civil rights organizations believes that several strategies will help ensure fair, nondiscriminatory treatment (increased accountability, proper training for TANF personnel, enhanced data collection, modified state plans, and overcoming of language barriers). (SM)

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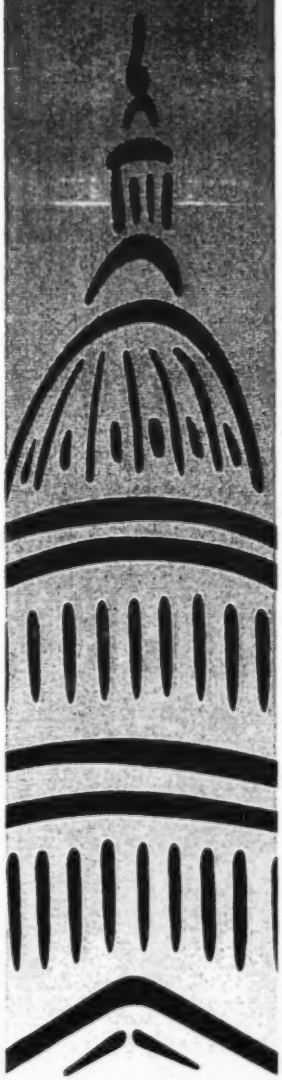

WELFARE REFORM 2002: ENSURING FAIR TREATMENT AND EQUAL OPPORTUNITY IN TANF

By Sean Thomas-Breitfeld*

INTRODUCTION

In late June 2002, the U.S. Senate Committee on Finance approved the Work, Opportunity, and Responsibility for Kids (WORK) Act of 2002, a bill to reauthorize the Temporary Assistance for Needy Families (TANF) block grant. Overall, the plan reflects the efforts of a number of key Senate champions and is a far more practical and workable bill than the House-approved welfare bill, H.R. 4737.

The Senate measure included many key priorities for Latino families, most especially by extending a hand to hardworking immigrant families who become unemployed. Notwithstanding this, much more is needed to ensure that Latino families in the TANF system have a fair and equal chance to leave the welfare rolls and get a good job. In particular, there has been a deafening silence from lawmakers regarding the impact of discrimination in the TANF system. Given that the share of families on TANF that are minority grew from three-fifths to just over two-thirds during the 1990s, welfare reauthorization can hardly be successful if it does not begin to tackle in earnest this important civil rights issue.

Fortunately, there is still time to improve the Senate version. Senator Russell Feingold (D-WI) has emerged as the leading champion on this issue by introducing the Fair Treatment and Due Process Protection Act of 2002 (S. 2878), a bill that focuses on incorporating due process protections into sanctions procedures, providing interpretation and translation services, and improving data collection, which is important for evaluating welfare reform's progress in assisting all families fairly and equally. A number of other members are expected to step up their efforts to promote other key civil rights measures in this year's reauthorization process.

This paper brings some much needed attention to ensuring fair treatment in TANF, highlights key civil rights measures, and calls on lawmakers to promote equal opportunity for Latino families.

BACKGROUND

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 fundamentally altered the nation's primary cash assistance program for families

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by ending the entitlement to welfare services. Agencies moved away from a centralized bureaucratic system to a more flexible system in which frontline workers were given significant discretion to determine eligibility for benefits and provide services. This increased flexibility allows caseworkers to tailor services to the needs of individual families but, unfortunately, also increases the possibility for differential and discriminatory treatment.

Several studies, as summarized below, have shown patterns of discrimination against minority TANF recipients:

- The U.S. Department of Health and Human Service's Office for Civil Rights (OCR) identified discrimination against Latino parents with limited proficiency in English. In particular, an OCR report found that many New York public assistance offices denied benefits if English language learners did not bring their own interpreter.[1] In response to numerous cases of discrimination, the Department of Health and Human Services issued a policy guidance outlining a strategy for providing meaningful access to benefits and services for limited-English-proficient persons.
- An independent study by Professor Susan Gooden of TANF recipients in Virginia found that none of the Black respondents reported receiving offers of transportation assistance or encouragement to pursue education while roughly two-fifths of the White respondents received these supports from their caseworkers.[2]
- A national survey by the Applied Research Center found that one-third of Latino respondents believed they had received discriminatory treatment in welfare programs, whereas only one-quarter of Black and White respondents believed they were treated differently because of their race or ethnicity. Furthermore, the survey's Latino participants were most likely to participate in a work experience or workfare program – in which they work for their welfare check alone rather than for wages – and least likely to be sent for job training.[3]
- The Urban Institute found that Hispanic families were the least likely to receive assistance from any government program in the first three months after leaving welfare. In particular, Latinos had the lowest rate of receipt of health insurance from a government program after leaving TANF.[4]

Discriminatory practices limiting Latino families' access to services, work supports, and training programs have arguably contributed to disparate outcomes for families on TANF based on race and ethnicity. Over the past decade, there has been a dramatic shift in the nationwide TANF caseload composition from White to Latino families, which has accelerated since 1996. Today, Hispanic families compose one-quarter (25.0%) of the TANF caseload, compared with 20.8% in 1996, although Latinos are 12.5% of this nation's population.

These troubling caseload statistics do not begin to reflect the many other disparities between Latinos and other groups. Poverty disproportionately plagues Latino families – 22.9% live in poverty – and the number of Latino families living below the poverty line decreased at a rate half that of the TANF caseload decline. Furthermore, a report from the Urban Institute showed that low-income Latino adults were, by far, more likely to

suffer from poor health, and low-income Hispanic children were less likely to be insured than their Black and White peers.[5]

CIVIL RIGHTS ENHANCEMENTS TO THE TANF BLOCK GRANT

Altogether, the evidence points to the need for effective reforms to the TANF program which will protect the rights of all families and ensure that Hispanic mothers have equal opportunities to move off the TANF rolls, into stable employment, and out of poverty. The WORK Act proposes some important changes to the TANF program which will ensure fair treatment. However, other significant measures have yet to be fully incorporated into the TANF reauthorization debate. NCLR, along with a broad coalition of civil rights organizations, believes the following strategies will go a long way in ensuring fair and nondiscriminatory treatment:

- **Increase Accountability.** Many families are not aware of all of the services for which they are eligible, thus limiting their ability to hold the caseworker accountable for providing access to such services. Furthermore, without skill assessments there is little accountability in the process by which caseworkers refer recipients to programs that are most appropriate to their individual needs. One of the hallmarks of the Senate Finance Committee's WORK Act is "universal engagement." This provision requires states to screen and assess the skills, experience, and barriers to employment of all parents receiving assistance. It also requires an Individual Responsibility Plan for each recipient which details required work activities and includes information concerning all work supports for which she or he is eligible. If implemented successfully, universal engagement can become an important first step in ensuring equitable treatment for families.

- **Properly Train Personnel.** The increased discretion given to caseworkers places a responsibility on states to ensure that TANF personnel are equipped to carry out their duties fairly and effectively. The WORK Act specifically requires training of staff related to civil rights and antidiscrimination laws. The Act also designates $120 million from 2003 through 2006, under its universal engagement provision, to be used for the training of staff as well as other activities. While funding is critical to effective training and an important first step, the amount allocated is insufficient and should be increased if all employees of TANF offices are to be properly trained. Ultimately, training will not be effective if caseworkers in TANF offices continue to be overloaded with clients. States must also develop strategies and guidelines for maintaining manageable caseload sizes. Improved training and smaller caseloads per staff person will help caseworkers provide individualized attention to the unique needs and challenges of TANF recipients and their families.

- **Enhance Data Collection.** The most recent information on the TANF caseload poses significant challenges to in-depth analysis because it is not reliable, uniform, or comprehensive. Quality data are needed to identify patterns of disparate treatment, allow for accurate comparisons between states and racial/ethnic groups, and evaluate the success of the TANF program. The WORK Act requires public posting of summary data on state websites. It also requires that states record and report

information of complaints concerning fair and equitable treatment. Another improvement in the WORK Act is the funding it provides for a longitudinal study to determine factors that contribute to positive employment and family outcomes in five to ten states, including race, ethnicity, primary language, and educational status. These are positive developments; however, the WORK Act should be amended to include provisions from Senator Feingold's bill (S. 2878) ensuring that all caseload data and reports include primary language, as well as the required data on race, gender, and educational level.

- **Modify State Plans.** Currently, there is little information about the strategies states have pursued in ensuring fair treatment. Therefore, the WORK Act requires that state plans set forth objective criteria for fair and equitable treatment. While this first step is central to encouraging states to focus on civil rights protections for TANF recipients, the WORK Act's state plan provision should be strengthened. States should describe a comprehensive strategy for ensuring compliance with nondiscrimination, civil rights, and employment laws. This enhanced requirement will make civil rights enforcement and compliance high priorities, thereby reducing the likelihood of violations.

- **Overcome Language Barriers.** Effective communication is critical to ensuring fair treatment. Many Latino recipients face unique challenges in moving through the welfare-to-work process because of language barriers. For instance, a parent who is limited-English-proficient will not be able to understand his or her rights or duties if such information is only communicated in English. Therefore, state plan requirements should include a written policy on language access to ensure meaningful communication, as outlined by the U.S. Department of Health and Humans Services' limited-English-proficiency policy guidance. Senator Feingold's bill strengthens the requirement that states provide interpretation and translation services by establishing standards and penalties for not providing such services.

A final issue that has been completely ignored in the TANF debate is the lifetime welfare ban on people convicted of a drug felony. Even after these women complete drug treatment programs and serve their prison sentences, they remain ineligible for supports from TANF. The ban places a significant barrier in the way of nearly 10,000 Latina women struggling to provide for their children, adjust to life after prison, and become self-sufficient.[6] NCLR urges members of the Senate to address this counterproductive policy and ensure that Latina mothers who have made mistakes and paid their debt to society have fair and equal access to this nation's safety-net services and are not denied the opportunity to rebuild their lives.

In order to meet the needs of the entire TANF caseload, more attention must be focused on the growing proportion of minority, particularly Latino, families receiving assistance. Reauthorization of the TANF block grant provides the Senate with the chance to reform the nation's public assistance system by improving the WORK Act, thereby helping all families move from poverty to self-sufficiency and affirming that this nation is truly a land of equal opportunity.

ENDNOTES

1. Letter of Findings, from the U.S. Department of Health and Human Services, Office for Civil Rights, to Antonia C. Novello, New York State Department of Health; Brian Wing, New York State Office of Temporary and Disability Assistance; Jason Turner, Human Resources Administration; Peter Clement, Nassau County Department of Social Services; John Wingate, Suffolk County Department of Social Services; Docket Number 02-99-3130, October 21, 1999.

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